

## ISSUE ALERTS



### KANSAS SUPREME COURT RULING UNCAPS DAMAGES FOR "PAIN AND SUFFERING"

June 14, 2019

A Kansas Supreme Court ruling today in *Hilburn v. Enerpipe Ltd.* paves the way for higher personal injury damages awards in Kansas and potentially higher insurance premiums. The Court's opinion found that limiting noneconomic damages, e.g., pain and suffering, in personal injury lawsuits was unconstitutional and violated a plaintiff's right to a jury trial because it "intrudes upon the jury's determination of the compensation owed personal injury plaintiffs to redress their injuries."

Significantly, plaintiffs will now be able to recover more than \$325,000 in noneconomic damages. Kansas juries tend to be fairly conservative when awarding damages in personal injury cases, so the loss of the cap may not necessarily affect matters involving less severe injuries. It is anticipated that the biggest impact would be on verdicts in cases involving very serious and painful physical and emotional injuries, as well as long-term future pain and suffering.

While the full impact of this ruling remains to be seen, this decision significantly alters damage caps that have been in existence for decades. We suggest contacting counsel to explore ways you may be able to limit your exposure and assess your risks.

#### FOR MORE INFORMATION

If you have questions or want more information regarding this decision, contact your legal counsel. If you do not have regular counsel for such matters, Foulston Siefkin LLP would welcome the opportunity to work with you to meet your specific business needs. In Wichita, you may contact Kyle Steadman at [ksteadman@foulston.com](mailto:ksteadman@foulston.com) or 316.291.9523; in Kansas City contact Scott Nehrbass at [snehrbass@foulston.com](mailto:snehrbass@foulston.com) or 913.253.2144; in Topeka contact Thomas Theis at [ttheis@foulston.com](mailto:ttheis@foulston.com) or 785.354.9417. For more information about Foulston Siefkin, please visit our website at [www.foulston.com](http://www.foulston.com).

View the full decision [here](#).

---

# FOULSTON

ATTORNEYS AT LAW

*This update has been prepared by Foulston Siefkin LLP for informational purposes only. It is not a legal opinion; it does not provide legal advice for any purpose; and it neither creates nor constitutes evidence of an attorney-client relationship.*

## PRACTICE AREAS

---

- Litigation & Disputes
- Appellate Law
- Business & Corporate Law
- Construction
- Elder Law
- Estate Planning & Probate
- Family Business Enterprise
- Healthcare
- Product Liability
- Professional Malpractice